

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

TracBeam, LLC,

Plaintiff,

v.

T-Mobile US, Inc., and
T-Mobile USA, Inc.,

Defendants.

Case No. 6:14-cv-678

Jury Trial

Complaint for Patent Infringement

Plaintiff TracBeam, LLC files suit against Defendants T-Mobile US, Inc. and T-Mobile USA, Inc. and alleges the following on information and belief.

Introduction

1. Plaintiff TracBeam owns the inventions described and claimed in the following United States Patents:

- US Patent No. 8,032,153, entitled “Multiple Location Estimators for Wireless Location” (the ‘153 patent);
- US Patent No. 7,764,231, entitled “Wireless Location Using Multiple Mobile Station Location Techniques” (the ‘231 patent);
- US Patent No. 7,525,484, entitled “Gateway and Hybrid Solutions for Wireless Location” (the ‘484 patent); and
- US Patent No. 7,298,327, entitled “Geographic Location Using Multiple Location Estimators” (the ‘327 patent).

2. Defendants have used and continue to use Plaintiff’s patented technology in products and services that they make, use, import, sell, and offer to sell. TracBeam seeks damages for patent infringement and an injunction preventing Defendants from making, using, selling, or offering to sell products and services claimed by the asserted patents without Plaintiff’s permission.

Plaintiff TracBeam

3. Plaintiff TracBeam is an inventor-owned company that has been awarded numerous patents relating to fundamental innovations in wireless location technology for use in emergency, enterprise, and consumer settings. TracBeam is a limited liability company organized and existing under the laws of the State of Colorado.

Defendants

4. T-Mobile US, Inc. is a Delaware corporation with a principal place of business in Bellevue, Washington and facilities and operations of relevance located throughout the country. T-Mobile US, Inc. was previously named MetroPCS Communications, Inc.¹ MetroPCS Communications, Inc. was a named Defendant in *TracBeam, LLC v. AT&T, Inc., et al.*, case no. 6:11-cv-96 (LED) (E.D. Tex.) and was, by agreement, dismissed without prejudice on June 17, 2013, with the express understanding that TracBeam's claims against MetroPCS in that action would later be re-asserted following resolution of the claims against co-defendants AT&T Mobility and Cellco Partnership.

5. T-Mobile USA, Inc. is a Delaware corporation with a principal place of business in Bellevue, Washington and facilities and operations of relevance located throughout the country. T-Mobile USA, Inc. is a wholly owned subsidiary of T-Mobile US, Inc. MetroPCS Wireless, Inc. was merged with and into T-Mobile USA, Inc.² MetroPCS Wireless, Inc. was also a named Defendant in *TracBeam, LLC v. AT&T, Inc., et al.* and was similarly dismissed without prejudice on June 17, 2013. Defendants T-Mobile US, Inc. and T-Mobile USA, Inc. are collectively referred to below as "T-Mobile."

¹ MetroPCS's Amended Rule 7.1 Disclosure Statement filed May 30, 2013. *TracBeam, LLC v. AT&T, Inc., et al.*, case no. 6:11-cv-96 (LED) (E.D. Tex.), dkt. 386 at 1.

² *Id.*

The Asserted Patents

6. The United States Patent and Trademark Office issued the ‘153 patent on October 4, 2011 (exhibit A); the ‘231 patent (exhibit B) on July 27, 2010; the ‘484 patent (exhibit C) on April 28, 2009; and the ‘327 patent (exhibit D) on November 20, 2007. Plaintiff TracBeam is the owner of all right, title, and interest in the patents, including all rights to pursue and collect damages for infringement of the patents.

Jurisdiction and Venue

7. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 and 281, *et seq.* The Court has original jurisdiction over this patent infringement action under 28 U.S.C. § 1338(a).

8. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) and §1400. Defendants have committed acts and continue to commit acts within this judicial district giving rise to this action. In addition, this Court has presided over other matters involving the asserted ‘231 and ‘484 patents: *TracBeam, LLC v. AT&T, Inc., et al.*, case no. 6:11-cv-96 (LED) and *TracBeam, LLC v. Google Inc.*, case no. 6:13-cv-93 (LED).

First Claim for Patent Infringement
(‘153 patent)

9. Plaintiff incorporates by reference each of the allegations in paragraphs 1-8 above and further alleges as follows.

10. On October 4, 2011, the United States Patent and Trademark Office issued US Patent No. 8,032,153, which discloses and claims “Multiple Location Estimators for Wireless Location.” *See also* ‘153 Abstract (“A wireless location system is disclosed that may be configured as a gateway for receiving a plurality of requests for locating mobile stations for, e.g., E911 requests, vehicle location or tracking.”).

11. Plaintiff TracBeam is the owner of the '153 patent with full rights to pursue recovery of royalties or damages for infringement of the patent, including full rights to recover past and future damages.

12. Each claim of the '153 patent is valid and enforceable.

13. Defendants have directly infringed the '153 patent, and will continue to do so unless enjoined, by making, using, providing, selling, and offering for sale products and services that infringed the claims of the '153 patent, including Defendants' (a) e911 location platforms and services and (b) commercial location based platforms and services. The foregoing allegations are made only with respect to the legacy MetroPCS network, products, and services.

14. Plaintiff TracBeam has been damaged by Defendants' infringement of the '153 patent.

15. Plaintiff demands trial by jury of all issues relating to this claim.

16. Plaintiff reserves the right to amend to assert a claim of willful infringement if the evidence obtained in discovery supports such assertion.³

Second Claim for Patent Infringement
('231 patent)

17. Plaintiff incorporates by reference each of the allegations in paragraphs 1-8 above and further alleges as follows.

18. On July 27, 2010, the United States Patent and Trademark Office issued US Patent No. 7,764,231, which discloses and claims "Wireless Location Using Multiple Mobile Station Location Techniques."

19. Plaintiff TracBeam is the owner of the '231 patent with full rights to pursue recovery of royalties or damages for infringement of the patent, including full rights to recover

³ Defendants were likely aware, at minimum, of the application that led to the issuance of the '154 patent (Application No. 12/014,092) since 2011 or earlier.

past and future damages.

20. Each claim of the ‘231 patent is valid and enforceable.

21. Defendants have directly infringed the ‘231 patent, and will continue to do so unless enjoined, by making, using, providing, selling, and offering for sale products and services that infringed the claims of the ‘231 patent, including Defendants’ (a) e911 location platforms and services and (b) commercial location based platforms and services. The foregoing allegations are made with respect to both the legacy MetroPCS and the T-Mobile networks, products, and services.

22. Plaintiff TracBeam has been damaged by Defendants’ infringement of the ‘231 patent.

23. Defendants’ infringement of the ‘231 patent has been and continues to be willful. Defendants have had knowledge of the ‘231 patent since at least February 2011 when they received notice letters from TracBeam and also a result of TracBeam’s assertion of the ‘231 patent against Defendants in *TracBeam, LLC v. AT&T, Inc., et al.*, case no. 6:11-cv-96 (LED). Defendants have disregarded an objectively high likelihood that their actions infringe the ‘231 patent. This risk has been known to Defendants or is otherwise so obvious that it should have been known to Defendants.

24. Plaintiff demands trial by jury of all issues relating to this claim.

Third Claim for Patent Infringement
(‘484 patent)

25. Plaintiff incorporates by reference each of the allegations in paragraphs 1-8 above and further alleges as follows.

26. On April 28, 2009, the United States Patent and Trademark Office issued US Patent No. 7,525,484 which discloses and claims “Gateway and Hybrid Solutions for Wireless Location.”

27. Plaintiff TracBeam is the owner of the '484 patent with full rights to pursue recovery of royalties or damages for infringement of the patent, including full rights to recover past and future damages.

28. Each claim of the '484 patent is valid and enforceable.

29. Defendants have directly infringed the '484 patent, and will continue to do so unless enjoined, by making, using, providing, selling, and offering for sale products and services that infringed the claims of the '484 patent, including Defendants' (a) e911 location platforms and services and (b) commercial location based platforms and services. The foregoing allegations are made only with respect to the T-Mobile networks, products, and services.

30. Plaintiff TracBeam has been damaged by Defendants' infringement of the '484 patent.

31. Defendants' infringement of the '484 patent has been and continues to be willful. Defendants have had knowledge of the '484 patent since at least February 2011 when they received notice letters from TracBeam and also a result of TracBeam's assertion of the '484 patent against Defendants in *TracBeam, LLC v. AT&T, Inc., et al.*, case no. 6:11-cv-96 (LED). Defendants have disregarded an objectively high likelihood that their actions infringe the '484 patent. This risk has been known to Defendants or is otherwise so obvious that it should have been known to Defendants.

32. Plaintiff demands trial by jury of all issues relating to this claim.

Fourth Claim for Patent Infringement
('327 patent)

33. Plaintiff incorporates by reference each of the allegations in paragraphs 1-8 above and further alleges as follows.

34. On November 20, 2007, the United States Patent and Trademark Office issued US Patent No. 7,298,327 which discloses and claims "Geographic Location Using Multiple Location

Estimators.”

35. Plaintiff TracBeam is the owner of the ‘327 patent with full rights to pursue recovery of royalties or damages for infringement of the patent, including full rights to recover past and future damages.

36. Each claim of the ‘327 patent is valid and enforceable.

37. Defendants have directly infringed the ‘327 patent, and will continue to do so unless enjoined, by making, using, providing, selling, and offering for sale products and services that infringed the claims of the ‘327 patent, including Defendants’ (a) e911 location platforms and services and (b) commercial location based platforms and services. The foregoing allegations are made only with respect to the T-Mobile networks, products, and services.

38. Plaintiff TracBeam has been damaged by Defendants’ infringement of the ‘327 patent.

39. Plaintiff demands trial by jury of all issues relating to this claim.

40. Plaintiff reserves the right to amend to assert a claim of willful infringement if the evidence obtained in discovery supports such assertion.⁴

Prayer for Relief

WHEREFORE, Plaintiff prays for judgment as follows:

- A. A judgment in favor of Plaintiff that Defendants have infringed each of the four asserted patents and that the patents are valid and enforceable;
- B. A judgment that Defendants have willfully infringed the ‘231 and ‘484 patents;
- C. A decree preliminarily and permanently enjoining Defendants as well as their officers, directors, employees, agents, and all persons in active concert with them, from infringing the asserted patents;

⁴ Defendants were likely aware, at minimum, of the application that led to the issuance of the ‘327 patent (Application No. 10/262,413) since 2011 or earlier.

- D. A judgment and order requiring Defendants to pay Plaintiff compensatory damages, costs, expenses, and pre- and post-judgment interest for Defendants' infringement of the asserted patents, as provided under 35 U.S.C. §284;
- E. A judgment and order finding that this patent infringement case is exceptional within the meaning of 35 U.S.C. §285 and awarding Plaintiff its reasonable attorneys' fees and costs; and
- F. Any and all other relief to which Plaintiff may be entitled.

Dated: August 8, 2014

Respectfully submitted,

By: /s/ Elizabeth L. DeRieux

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